



# *CITY OF FULSHEAR*

30603 FM 1093, P. O. BOX 279, FULSHEAR, TEXAS 77441  
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## *Fulshear City Council Minutes January 18, 2011*

### **I. CALL TO ORDER**

*A regular meeting of the Fulshear City Council was called to order by Mayor, Thomas C. Kuykendall, Jr. at 7:03 pm Tuesday, January 18, 2011 in the Fulshear City Hall, 30603 FM 1093, Fulshear, Texas and all citizens were welcomed.*

### **II. QUORUM**

*A quorum was present.*

#### Members Present

*Thomas C. Kuykendall, Mayor  
J. B. Collins, Jr., Mayor Pro-Tem  
Stephen Gill  
Larry Beustring  
Laverne Patterson  
Jeff Roberts*

#### Staff Present

*C. J. Snipes, City Administrator  
Kristina Brashear, Finance Director  
Scott Head, Police Chief  
D. (Diana) Gordon Offord  
J. Grady Randle, City Attorney and  
Associates (Chris Nichols & Tim Kirwin)*

#### Members Absent

*None*

#### Others Present

*Viola Randle  
Russ Cosby  
Timothy Simms  
Gwen Fox  
Carl G. Utley  
John Lebourhis  
Jamie Roberts  
Corine Penrice  
And 27 others who did not sign in*

### **III. INVOCATION - Reverend Alicia Coltzer, Pastor of First United Methodist Church, Fulshear, Texas**

*A prayer was given by Pastor Alicia Coltzer of the First United Methodist Church, Fulshear, Texas.*

### **IV. PLEDGE OF ALLEGIANCE**

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*Pledge of Allegiance oath was lead by Mayor Thomas C. Kuykendall, Jr.*

V. **CITIZEN COMMENTS – NO ACTION CAN BE TAKEN**

*There were no Citizens comments.*

VI. **CONSENT AGENDA**

A. **CONSENT and APPROVAL of MINUTES from the DECEMBER 13<sup>th</sup> and DECEMBER 21<sup>st</sup>, 2010 MEETINGS**

B. **CONSENT and APPROVAL on CHECKS PAID and PAYABLES from DECEMBER 22, 2010 thru JANUARY 18, 2011**

C. **CONSENT and APPROVAL on FIRETHORNE WEST MEETING CENTER/FINAL PLAT**

D. **CONSENT and APPROVAL on FIRETHORNE DETENTION POND/ FINAL PLAT**

E. **CONSENT and APPROVAL on FIRETHORNE FIRE STATION/FINAL PLAT**

F. **CONSENT and APPROVAL of QUARTERLY INVESTMENT REPORT from OCTOBER 2010 to DECEMBER 2010**

*A motion was made by Alderman Collins to approve all items on the consent agenda with the exception of charges for Bono Brothers on the list of payables. It was seconded by Alderman Beustring.*

*Alderman Roberts stated he wanted to bring to the attention of the Council that legal fees are now at \$62,000.00 and we only budgeted \$78,000.00 for the fiscal year. Mayor Kuykendall stated that increased fees are due to the fight regarding LCISD (Lamar Consolidated Independent School District).*

*Mayor Kuykendall stated we have a motion and a second on the table. He called for a vote.  
The motion was carried by the following vote:*

*Ayes: Aldermen Beustring, Collins, Gill, Roberts, and Alderwoman Patterson*

*Nays: None*

VII. **REPORTS**

**Reports are presented to Council for informational purposes only and no action may be taken on any item contained in a report with a specific actionable item listed under Business Items.**

A. **REPORT from SOUTHWEST WATER COMPANY (Repairs, New installations, and reports to TCEQ.)**

B. **REPORT from the POLICE DEPARTMENT (Traffic Citations, arrests, incidents, calls for service)**

C. **REPORT from the MUNICIPAL COURT CLERK (Fees and Fines)**

*Report from Southwest Water Company was presented by Jason Demel. Mayor Kuykendall stated he will be requesting a comparison to be completed to test whether the income from the Water & Sewer*

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*department is meeting its expenses. He stated in years past money had to be borrowed from other sources to pay expenses for the water and sewer.*

*Report from the Police Department was presented by Police Chief Scott Head*

*Report from the Municipal Court Clerk was presented by Elaine Brown, Contract Municipal Court Clerk.*

**VIII. BUSINESS**

**A. RECOGNITION for JAN BAKER, OUTGOING MUNICIPAL COURT PROSECUTOR**

Mayor Kuykendall presented Jan Baker with a plaque for her service to the citizens of Fulshear.

Ms. Baker will be leaving at the end of January to explore new opportunities. Mayor Kuykendall did a quote from Judge Crow's email which stated, "She's tough on violators but still has a big heart. She treats everyone fairly and with kindness. I feel so lucky to have worked with her and I am very said to see her go". Mayor Kuykendall stated even though he did not know Ms. Baker that well, these words says it all. Judge Crow was present and extended words of encourage to Ms. Baker and a farewell. The audience gave a loud applaud.

**B. CONSIDER and TAKE ACTION on APPROVING PUBLICATION OF BID FOR STANDPIPE REPAIRS**

*Mayor Kuykendall stated the water plant behind Huggins school needs to be painted and need repairs to the standpipes. He stated this is a request to go out for bids. It will have to come back to Council to decide on which bid will be accepted.*

*A motion was made by Alderman Gill to approve publication of bid for standpipe repairs in the City of Fulshear. It was seconded by Alderman Collins. The motion was carried by the following vote:*

*Ayes: Alderman Beustring, Collins, Gill, Roberts, and Alderwoman Patterson*

*Nays: None*

**C. CONSIDER and TAKE ACTION to APPROVE WAIVER of DEVELOPMENT AGREEMENT RELATED to the ANNEXATION of PROPERTY OWNED by LANDMARK INDUSTRIES**

*A motion was made by Alderman Roberts to approve waiver of development agreement related to the annexation of property owned by Landmark Industries. It was seconded by Alderman Collins. The motion was carried by the following vote:*

*Ayes: Alderman Beustring, Collins, Gill, Roberts, and Alderwoman Patterson*

*Nays: None*

**D. CONSIDER and TAKE ACTION on RESOLUTION 2011-167 APPROVING PROPOSED ANNEXATION of PROPERTY owned by LANDMARK INDUSTRIES by FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 173 (THE "DISTRICT")**

*A motion was made by Alderman Collins to approve and adopted Resolution 2011-167 approving proposed annexation of property owned by Landmark Industries by Fort Bend County Municipal Utility District No. 173 ("The District"). It was seconded by Alderman Roberts. The motion was carried by the following vote:*

*Ayes: Alderman Beustring, Collins, Gill, Roberts, and Alderwoman Patterson*

*Nays: None*

**E. CONSIDER and TAKE ACTION on ORDINANCE 2011-1029 an ORDINANCE APPROVING ANNEXATION of TWO TRACTS of LAND owned by LANDMARK INDUSTRIES described as:**

**(1) 47.748 Acres of Land being all of a 5.000 Acre Tract of Land (Fort Bend County Clerk's File No. 1999031332), being a portion of a 138.005 Acre Tract of Land (Fort Bend County Clerk's File No. 2001005402), being a portion of a 108.505 Acre Tract of Land (Fort Bend County Clerk's File No. 2002088346) and being a portion of a 14.200 Acre Tract of Land (Fort Bend County Clerk's File No. 2002116850) all being portions of a called 290.798 Acre Tract of Land (Volume 1912, Page 1944; Official Records of Fort Bend County, Texas) being in the R. H. Kuykendahl Survey, Abstract No. 274, in the J. C. McDonald Survey, Abstract No. 290 and in the T. W. Sutherland Survey, Abstract No. 421, Fort Bend County, Texas; and**

**(2) 22.962 Acres of Land being a portion of a 138.005 Acre Tract of Land (Fort Bend County Clerk's File No. 2001005402) being a portion of a called 151.00 Acre Tract of Land (Fort Bend County Clerk's File No. 9682322 being a portion of a called 290.798 Acre Tract (Volume 1912, Page 1944; Official Records of Fort Bend County, Texas) being in the J. C. McDonald Survey, Abstract No. 290, Fort Bend County, Texas.**

*A motion was made by Alderman Gill to approve and adopt Ordinance 2011-1029. It was seconded by Alderman Roberts. The motion was carried by the following vote:*

*Ayes: Alderman Beustring, Collins, Gill, Roberts, and Alderwoman Patterson*

*Nays: None*

**F. CONSIDER and TAKE ACTION to APPROVE ORDINANCE 2011-1030 an ORDINANCE of the CITY of FULSHEAR REPEALING and REPLACING ORDINANCE NO. 2002-880 CONCERNING the PROCEDURES for the REGULATION and ABATEMENT of PUBLIC NUISANCES caused by SUBSTANDARD BUILDINGS or STRUCTURES within the CITY; DEFINING SUBSTANDARD BUILDINGS and STRUCTURES; CREATING a BUILDING STANDARDS COMMITTEE; PROVIDING for NOTICE and a PUBLIC HEARING CONCERNING the CONDITION of such BUILDINGS and STRUCTURES; PROVIDING a PENALTY of an AMOUNT NOT TO EXCEED \$2,000 for EACH VIOLATION of ANY PROVISION HEREOF; REPEALING ALL ORDINANCES or PARTS of ORDINANCES INCONSISTENT or in CONFLICT HEREWITH; and PROVIDING for SEVERABILITY and EFFECTIVE DATE**

*Chris Nichols, representing the office of City Attorney, stated that the City adopted in 2002 a substandard building ordinance but since that time there have been changes in the law and this revised ordinance gives the City abatement procedures and what qualification what actually substantiate a dangerous or substandard structure and outlines all the language that the City needs to maintain its proper.*

*CJ Snipes, City Administrator, states that an individual would have the opportunity to go through Building Standards Committee if they disagreed or want to appeal before taking it to District Court and is also included as part of this ordinance.*

*Chris Nichols stated by passing this ordinance you would also be creating a committee to hear evidence whether or not a building is unsafe or dangerous. This committee would make a determination whether it should be repaired or demolished or next step to be taken.*

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*Alderman Collins asked the question whether this ordinance would be only for commercial buildings. Chris Nichols stated it would be any structure.*

*Alderman Collins gave a scenario of his grandmother living in a substandard building and she does not have the means to repair it. He stated the City would require the building demolished and charge her the \$2,000.00 fine. Chris Nichols responded that even though the penalties are stated, it would be up to the City as to whether they wish to enforce them. There was much discussion regarding this issue.*

*Mayor Kuykendall stated that we have an existing ordinance and this would bring it up to the language of the law and note that we already have a substandard ordinance in place. Mayor Kuykendall stated the intent of the ordinance is not to go out and punish people. We would like to get this in the paper that all the local organizations that help people in the community gather for a meeting on Thursday, January 20th in order to help those that do not have the physical ability or the financial ability to assist them in bringing their condition up to standard. The intent of the ordinance is to improve the quality of the City with some of these inferior structures.*

*Alderwoman Patterson stated this is not the way the ordinance reads and her question is does this just affect abandoned buildings or houses with people in it. Alderwoman Patterson states she has a problem with that.*

*Chris Nichols stated that by the time it gets to the building committee there is a real serious problem. It just not a matter of the building official tagging doors. There is a lot of communication between the occupant of the building and building official to get structure up to code.*

*Alderwoman Patterson referred to Section 2 item c. of the potential ordinance where it quotes "The City.....may require a building or structure.....and/or demolished by the owner and for the occupants thereof to be relocated. Alderwoman Patterson stated whether we are talking about abandoned buildings or houses with people who cannot afford to fix their property.*

*Chris Nichols stated it could be a possibility that it could affect people whose houses are so run down and they cannot afford to fix them or it might require a landlord to fix up their property. Mr. Nichols asked that the language be looked at as it states "may" it's not a mandatory "shall".*

*Alderwoman Patterson stated she did not want to get into the business of taking people property as everyone is concerned about the growth here.*

*Chris Nichols states this ordinance allows for extreme measures to be taken if necessary.*

*Alderwoman Patterson stated she disagreed with this ordinance as it impacted individuals who could not afford to make repairs to their homes.*

*Alderman Roberts stated it appeared to be more like a homeowner association telling people what they can have on their properties. Alderman Roberts states this ordinance will probably bring a lot of lawsuits against the City. What kind of protection against the commission members being sued? Chris Nichols stated that the individual would sue the City but it may happen that individuals on the commission could be sued.*

*Alderman Roberts requested a workshop to further study this issue. There was more discussion and everyone agreed to a workshop.*

*A motion was made by Alderman Roberts to table this item. It was seconded by Alderwoman Patterson. The motion was carried by the following vote:*

*Ayes: Alderman Beustring, Collins, Gill, Roberts, and Alderwoman Patterson*

*Nays: None*

**G. CONSIDER and TAKE ACTION to APPROVE ORDINANCE 2011-1031 an ORDINANCE of the CITY of FULSHEAR, TEXAS, PROVIDING FOR THE CREATION OF A BUILDING AND STANDARDS COMMISSION; ESTABLISHING THE TERM AND QUALIFICATION OF MEMBERS; ESTABLISHING JURISDICTION AND PROVIDING FOR NOTICE OF PROCEEDINGS, CIVIL PENALTIES AND APPEALS; AND PROVIDING FOR SEVERABILITY**

*No action required. Alderman Gill stated that the next two items should be tabled since they are connected to item F.*

*A motion was made to table item G and H by Alderman Gill. It was seconded by Alderman Beustring. The motion was carried by the following vote:*

*Ayes: Alderman Beustring, Collins, Gill, Roberts, and Alderwoman Patterson*

*Nays: None*

**H. CONSIDER and TAKE ACTION to APPROVE RESOLUTION 2011-168 a RESOLUTION APPOINTING MEMBERS to the CITY'S BUILDING STANDARDS COMMISSION**  
*SEE ABOVE EXPLANATION.*

**I. CONSIDER and TAKE ACTION on RESOLUTION 2011-169 a RESOLUTION APPROVING the CREATION of a MUNICIPAL MANAGEMENT DISTRICT**

*A motion was made by Alderman Gill to approve Resolution 2011-169 approving the creation of a Municipal Management District (MMD). It was seconded by Alderman Collins. The motion was carried by the following vote:*

*Ayes: Alderman Beustring, Collins, Gill, Roberts, and Alderwoman Patterson*

*Nays: None*

**J. CONSIDER and TAKE ACTION on RESOLUTION 2011-170 a RESOLUTION ADOPTING IDENTITY THEFT PREVENTION PROGRAM**

*A motion was made by Alderwoman Patterson to approve Resolution 2011-170 adopting identity theft prevention program. It was seconded by Alderman Beustring. The motion was carried by the following vote:*

*Ayes: Alderman Beustring, Collins, Gill, Roberts, and Alderwoman Patterson*

*Nays: None*

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*Mayor Kuykendall stated we would not have an Executive Session unless someone needs to speak with the attorneys.*

*Alderman Gill stated he would like to have an Executive Session.*

IX. **EXECUTIVE SESSION-CLOSED SESSION IN ACCORDANCE WITH THE GOVERNMENT CODE SECTION 551.071, CONSULTATION WITH ATTORNEY; SPECIFICALLY SUB-SECTIONS:**

- 1) **WHEN THE GOVERNMENTAL BODY SEEKS THE ADVICE OF ITS ATTORNEY ABOUT:**
  - (A) **PENDING OR CONTEMPLATED LITIGATION; OR**
  - (B) **A SETTLEMENT OFFER; OR**
- 2) **ON A MATTER IN WHICH THE DUTY OF THE ATTORNEY TO THE GOVERNMENTAL BODY UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT OF THE STATE BAR OF TEXAS CLEARLY CONFLICTS WITH THIS CHAPTER**

**DISCUSSION of THREATENED LITIGATION with LCISD**

*Mayor Kuykendall announced that Council would enter into Executive Session at 8:55 p.m. and quorum was present.*

X. **RECONVENE AND TAKE ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION IF DEEMED APPROPRIATE**

*Mayor Kuykendall announced that Council would reconvene back into Regular Session at 9:30 p.m. and a quorum was present and had nothing to report.*

XI. **ADJOURNMENT**

*A motion was made by Alderman Collins to adjourn. It was seconded by Alderman Gill. The motion was carried by the following vote:*

*Ayes: Alderman Beustring, Collins, Gill, Roberts, and Alderwoman Patterson*

*Nays: None*

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Mayor - Thomas C. Kuykendall, Jr.

Attest:

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City Secretary, D. (Diana) Gordon Offord